

-- REMARKS --

Claims 1-107 are currently pending in the application. Claims 13-14, 17, 22-24, 30-52, 64-68, 71, 76-78, and 84-107 have been withdrawn from consideration. Claims 15, 25, 69 and 79 have been cancelled. Claims 1-2, 16, 53-54, 70 and 72 have been amended. The changes to the amended claims from the previous versions to the rewritten versions are shown above with strikethroughs for deleted matter and underlines for added matter. No new matter has been added as a result of these amendments.

In the outstanding Office Action, the Examiner has stated that the Information disclosure Statement received by the PTO on January 30, 2004 (Applicant mailing date of January 27, 2004), has not been considered because the Information Disclosure Statement failed to comply with 37 CFR 1.98(a)(1). The Information Disclosure Statement was presumably objected to because it did not include a Form PTO-1449 listing each of the disclosed references. However, and as set forth in transmittal document submitted with the Information disclosure Statement (copy enclosed), a Form PTO-1449 was submitted therewith. Applicants do not know why the Examiner did not receive the Form PTO-1449, but presumably the document was lost in transit to the Examiner. A copy of the previously filed Information Disclosure Statement, including a Form PTO-1449, is being enclosed herewith. Applicants respectfully request that the Examiner consider each of the references listed therein.

In the outstanding Office Action, the drawings have been objected to under 37 CFR 1.83(a) for failing to show every feature of the invention specified in the claims. In particular, the drawings have been objected to for failing to show certain features referenced in claims 16, 25, 69 and 79. These claims have been cancelled. Thus, the objection to the drawings is moot.

In the outstanding Office Action, claims 1-2, 7, 9-11, 20, and 29 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,056,293 to Reeves et al. (hereinafter "Reeves"). Claims 3-6, 8, 12, 15-16, 18-19, 21, 25-28, 53-63, 69-70, 72-75, and 79-83 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Reeves in view of U.S. Patent No. 4,966,162 to Wang (hereinafter

"Wang"), U.S. Patent No. 6,579,279 to Rabiner et al. (hereinafter "Rabiner"), U.S. Patent No. 7,108,661 to Secrest et al. (hereinafter "Secrest"), and/or U.S. Patent No. 6,108,439 to Ishiguro (hereinafter "Ishiguro"). The rejections under 35 U.S.C. §§ 102(b) and 103(a) are respectfully traversed.

Independent claim 1 is directed to an apparatus for collecting a cytology sample, wherein the apparatus comprises a needle, a stylet and a cytology collection device. Both the needle and the cytology collection device are adapted to extend through the lumen of the needle, although not at the same time. The needle comprises an elongate flexible shaft that is adapted to extend through the working channel of an endoscope. Thus, the apparatus is specifically adapted to collect a cytology sample from a remote location with the patient. Independent claim 53 is directed to a method of collecting a cytology sample by providing an apparatus having these same limitations. The apparatus and method are neither disclosed nor suggested by the prior art.

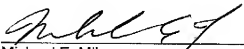
Reeves is directed to an apparatus for diagnosing and/or sampling ovarian tissue. Although Reeves discloses an introducer needle (10) through which other devices may be inserted, it is clear that the introducer needle is not adapted to extend through an endoscope. To the contrary, the introducer needle is adapted to permit a fiber optic device to be extended therethrough. Thus, Reeves teaches away from the needle of the present invention, which must be adapted to extend through the working channel of an endoscope. Moreover, it is apparent that the introducer needle of Reeves does not comprise a flexible shaft, as further required by claims 1 and 53 of the present invention. This is not surprising since the Reeves introducer needle is not adapted to extend through the working channel of an endoscope. This is further evidence that Reeves is not relevant to present invention. The other references likewise fail to disclose or suggest these same limitations.

In view of the above, independent claims 1 and 53 are not rendered unpatentable in view of the prior art. The remaining non-withdrawn claims are dependent on either claim 1 or 53. Thus, these remaining non-withdrawn claims are likewise not rendered unpatentable in view of the prior art.

It is therefore believed that the application is in condition for allowance, and such allowance is now earnestly requested. If for any reason the Examiner is not able to

allow the application, he is requested to contact the Applicants' undersigned attorney at (312) 321-4273.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Michael E. Milz", written over a horizontal line.

Michael E. Milz
Registration No. 34,880
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200